

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

Civil Action No.

EXXONMOBIL CORPORATION,

Plaintiff,

v.

ELECTRICAL RELIABILITY SERVICES, INC.
And OLD REPUBLIC INSURANCE COMPANY,

Defendants.

DEFENDANT ELECTRICAL RELIABILITY SERVICES' NOTICE OF REMOVAL

TO: THE HONORABLE JUDGES AND CLERK OF THE ABOVE-ENTITLED COURT

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 1441 and 1446, Defendant Electrical Reliability Services, Inc. ("ERS") hereby files this Notice of Removal of the state court civil action described below. The grounds for removal are the following:

PROCEDURAL HISTORY

1. Plaintiff ExxonMobil Corporation ("ExxonMobil") commenced this action with the filing of a Complaint in Harris County District Court, State of Texas, on May 19, 2010, in Case No. 2010-31449 (the "Harris County Action").

2. ERS was served with a copy of the Summons and Complaint on May 26, 2010. A copy of the Summons and Complaint are attached as Exhibits A and B, respectively.

3. Removal is timely under U.S.C. § 1446(b), because this Notice of Removal is filed within 30 days after receipt by ERS of a copy of the Complaint, as calculated under Fed.R.Civ.P. 6(a)(1), and within one year of the commencement of the Harris County Action.

VENUE

4. Under 28 U.S.C. § 1441 and § 1446(a), this Court is the appropriate forum in which to file this Notice of Removal because the United States District Court for the Southern District of Texas is the federal judicial district encompassing Harris County, Texas in which the Harris County Action was filed.

JURISDICTION

5. The Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332 (d), and it is one that may be removed to this Court by ERS pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446 on the following grounds:

A. This is a civil action between citizens of different states. ExxonMobil is a company organized under the laws of the State of New Jersey and maintains its principal place of business in Irving, Texas. ERS is a company organized under the laws of the State of Missouri, with its principal place of business in Columbus, Ohio. Co-Defendant is a corporation existing under the laws of State of Pennsylvania, with its principal place of business in Greensburg, Pennsylvania.

B. The amount in controversy in this civil action exceeds \$75,000, exclusive of interests and costs. In Paragraph 29 of the Complaint, ExxonMobil alleges that it has suffered damages in the amount of \$2.5 million (Complaint ¶ 29).

C. This case therefore meets the requirements of original jurisdiction due to complete diversity of citizenship pursuant to 28 U.S.C. § 1332(a) and the amount in controversy exceeds \$75,000, exclusive of interests and costs.

6. Pursuant to 28 U.S.C. § 1446, counsel for ERS has caused a copy of a Notice of Removal to be filed with the Clerk of the Harris County District Court, a copy of which is attached as Exhibit A. Pursuant to LR 81, true and complete copies of all other documents filed in the Harris County Court action are attached as follows:

Exhibit B: May 15, 2010 Plaintiff ExxonMobil Corporation Original Petition

Exhibit C: June 16, 2010 Defendant Electrical Reliability Services, Inc. Answer to

Exhibit D: June 18, 2010 Docket Control Order

7. Undersigned Counsel for ERS has received written consent for removal from Old Republic Insurance Company. Old Republic Insurance Company will confirm its consent to removal in its responsive pleading.

WHEREFORE, ERS gives notice that the Harris County Action pending against it has been removed to the United States District Court for the Southern District of Texas and all further proceedings shall be conducted in this Court. As required by 28 U.S.C. § 1446(d), ERS has submitted written notice of removal to the clerk of the Harris County District Court and to Plaintiff's counsel of record.

DATED this 25th day of June, 2010.

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Attorneys for Defendant Electric Reliability Services, Inc.

CERTIFICATE OF SERVICE

I hereby certify that, on this 25th day of June 2010, a true and correct copy of the foregoing was served via ECF filing system on the following. I also certify that a true and correct copy of the foregoing Notice of Removal was electronically filed via ECF on June 25, 2010 in the Harris County District Court case captioned *ExxonMobil Corporation v. Electrical Reliability Services, and Old Republic Insurance Company* and thereby was electronically served on the following:

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